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May 29, 2002

EX PARTE

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: In the Matter of Sprint PCS and AT&T Petitions for
Declaratory Ruling on CMRS Access Charge Issues, WT
Docket No. 01-316**

Dear Ms. Dortch:

Today, Rick Whitt and I of WorldCom met with Matthew Brill (legal advisor to Commissioner Abernathy). We discussed whether Commission policy either does or should authorize wireless carriers to impose access charges on interexchange carriers (IXCs). During that meeting, we emphasized that existing law does not allow wireless carriers to impose access charges on IXCs with which they do not interconnect directly. We refuted the view expressed by Sprint PCS that CMRS-IXC interconnection is governed by "calling party network pays". A summary of the subject matter of our discussion follows this letter.

Sincerely,

_____/s/____

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Wireless carriers may not impose access charges on IXC's that they interconnect with only indirectly (via the ILEC tandem switch).

- In a 1995 NPRM the Commission tentatively concluded that CMRS providers should be able to recover access charges in these circumstances, but stated that "it will be necessary to apply certain protections to such interconnection arrangements, at least for the foreseeable future." No protections were ever adopted and that tentative conclusion was never adopted in a final order or rules.

There is no valid public policy reason to introduce regulated access charges to CMRS-IXC interconnection.

- The existing regime under which each carrier charges its end users for usage is pro-competitive and stable. As a theoretical matter, according to the Commission's economists, bill-and-keep promotes competition better than a regime in which carriers charge interconnecting carriers. It particularly makes no sense to move this one area of intercarrier compensation away from bill-and-keep, at a time when the Commission is considering moving others towards bill-and-keep.

Every argument presented by Sprint is wrong or misleading.

1. Wireless carriers provide exchange access services to IXC's.
 - Under the Commission's rules wireless carriers may offer access services to IXC's. But simply completing or originating a call does not constitute the provision of an access service. Under the existing paradigm, wireless and IXC networks interconnect indirectly and exchange traffic on a bill-and-keep basis.
2. Wireless rates for access services are unregulated.
 - It is true that the Commission detariffed wireless service. But the Commission has never held that wireless carriers can impose access charges on carriers with which they interconnect only indirectly.
3. The existing regulatory regime is CPNP.
 - Sprint has just said that the services at issue are unregulated. It cannot have things both ways. The Commission has never mandated CPNP for wireless/IXC interconnection. In any event, as a matter of fact, the existing regime is one in which IXC's and wireless carriers exchange traffic on a bill-and-keep basis. Moreover, Sprint PCS would impose access charges even

when it originates traffic to IXCs. Thus, even Sprint's preferred outcome is not CPNP.

4. Under the existing orders and regulatory regime, the FCC cannot retroactively prohibit wireless carriers from imposing charges for access to their network.
 - Like all wireless carriers, Sprint PCS has already been compensated for access to its network – by its customers. This is the essence of bill-and-keep. End-user customers, not interconnecting carriers, pay for network access.
5. Wireless carriers are entitled to charge for services rendered.
 - Originating or terminating a phone call does not necessarily constitute a “service rendered” to an interconnecting carrier. Indeed, it is likely that Sprint receives as great a benefit from the existing bill-and-keep regime as do IXCs. After all, Sprint's service would not be valuable if its customers did not know that they could originate toll free calls and receive calls from subscribers of other IXCs.
6. Market negotiations cannot resolve this issue without FCC action.
 - If the Commission acknowledges that its existing rules do not allow the imposition of access charges in these circumstances, it will open the door to productive negotiations. IXCs currently pay tandem charges associated with indirect interconnection. With sufficient volumes, mutually beneficial direct interconnection is worth pursuing. But Sprint PCS has no incentive to pursue direct interconnection if it thinks that it can force IXCs to accept exorbitant terms for indirect interconnection.
7. Sprint PCS has not recovered its costs from its end-user customers.
 - This is either false or trivially true. In neither case is it a reason to throw out the existing stable bill-and-keep regime in favor of introducing access charges to a market that has so far avoided them. The fact that Sprint PCS may operate at a net loss is irrelevant. The Commission's job is not to guarantee their cost recovery, but to protect an interconnection paradigm that allows competition to flourish. An access charge regime would have the same terminating access monopoly problem that afflicted CLEC access charges. By contrast, a bill-and-keep regime allows companies to compete directly for end users.
8. FCC can create a prospective safe harbor.
 - The FCC decided years ago that rate regulation of wireless services was unnecessary. The fact that such regulation would be needed should be sufficient reason to reject Sprint's invitation to displace the existing bill-and-keep regime.

9. AT&T's refusal to pay does not create a binding industry standard.
 - A carrier may refuse to pay any unlawful charge (as WorldCom has also done in this instance). For 20 years, wireless carriers did not attempt to impose access charges on IXC's. This practice is reflected in the basic cost structures of both industries. Sprint PCS's unilateral attempt to impose charges does not make them lawful.
10. "Discrimination" against wireless carriers will inhibit competition.
 - There are many differences between the degree and impact of regulation on wireless and wireline services: e.g., equal access/dialing parity; number portability; USF support. No reason to believe that this particular difference matters more than others. CMRS providers have submitted no empirical evidence to support this assertion.
 - These charges would yield no net revenues for CMRS providers, if they are correct that CMRS markets are highly competitive. Yet Sprint PCS claims that these revenues are needed to allow it to "shoulder its regulatory burden."
11. IXC's do not offer bill-and-keep to wireless carriers.
 - As far as WorldCom knows, no IXC has ever attempted to bill a wireless carrier for calls that originate on the wireless carrier's network.